

DEPARTMENT OF STATE REVENUE

**LETTER OF FINDINGS NUMBER: 98-0362 CSET
Controlled Substance Excise Tax
For Tax Periods: 1998**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUE

1. CONTROLLED SUBSTANCE EXCISE TAX: IMPOSITION

Authority: IC 6-7-3-5, IC 6-7-3-19

Taxpayer protests the assessment of Controlled Substance Excise Tax.

STATEMENT OF FACTS

Taxpayer gave a police officer permission to search her vehicle with a drug trained dog. The dog found marijuana that Taxpayer admitted belonged to her. On March 13, 1998, the Prosecutor notified the Department in writing that he was declining to prosecute Taxpayer. The Department issued a Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand on March 24, 1998. Taxpayer timely protested the assessment and a hearing was set for August 13, 1998. Taxpayer did not appear for the hearing.

Controlled Substance Excise Tax-Imposition

DISCUSSION

IC 6-7-3-5 imposes the Controlled Substance Excise Tax on the delivery and possession of marijuana in the State of Indiana. In the instant case, a police dog located marijuana in Taxpayer's car and Taxpayer admitted that the marijuana was hers. The prosecutor determined that he would not prosecute the case and referred it in writing to the Department pursuant to IC 6-7-3-19. After receipt of the prosecutor's letter, the

Department issued a Record of Jeopardy Finding, Jeopardy Assessment Notice and Demand to Taxpayer. Taxpayer did not present any evidence that the information in the file was incorrect.

FINDING

Taxpayer's protest is denied.